

**OECA and Regional Report**  
**Week Ending February 1, 2019**

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## **Region 1**

### **Regular Highlights:**

#### **Enforcement and Compliance Assurance Issues**

##### **Region 1 Settles CWA Action against Martha's Vineyard Shipyard [Docket No. CWA-01-2018-0066]**

On December 20, 2018, Region 1 filed a consent agreement and final order (CAFO) resolving violations of the Clean Water Act by Martha's Vineyard Shipyard, Inc. (MV Shipyard). MV Shipyard operates a boat storage and repair yard located in Vineyard Haven, Massachusetts. MV Shipyard discharged stormwater associated with industrial activity not in compliance with the terms and conditions of a National Pollutant Discharge Elimination System (NPDES) permit. Additionally, MV Shipyard failed to develop and implement a spill prevention, control, and countermeasure plan. The company has come into compliance with the CWA and has agreed to pay a civil penalty of \$26,526 to resolve the violations. The case team notified the Commonwealth of Massachusetts of the conclusion of this matter. Contact: Solanch Pastrana-Del Valle, 617-918-1746; Christine Foot, 617-918-1333.

##### **EPA Issues Order on Consent re: Kellogg-Deering Well Field Superfund Site, Norwalk, CT [Docket No. CERCLA-01-2019-0012]**

On December 20, 2018, EPA issued an Administrative Settlement Agreement and Order on Consent (ASAOC) pursuant to Sections 104, 106(a), 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622 (CERCLA). Main Norwalk, LLC (Respondent) is the current owner of property at 272-280 Main Avenue in Norwalk, Connecticut (Property), which is a substantial portion of the source area of the Kellogg-Deering Well Field Superfund Site (Site). Respondent acquired the Property in 2015 and plans to redevelop it for retail and commercial uses. To facilitate the redevelopment, Respondent proposes to relocate the groundwater treatment facility located on the Property, which is a component of the selected remedy at the Site. The ASAOC provides for Respondent's performance of the work to relocate the treatment facility and the payment of certain response costs incurred by the United States for oversight of this work. Also, as the owner, Respondent has agreed to provide access and to implement institutional controls on the Property. Contact: Ronald Gonzalez, 617-918-1786; Terrence Connelly, 617-918-1373.

##### **Region 1 Issues CAA Administrative Compliance Order to Town of Brookline, MA under General Duty Clause**

On December 28, 2018, Region 1 executed and filed a Notice of Violation and Administrative Consent Order (ACO) that requires the Town of Brookline to conduct a Process Hazard Review of its rink's ice-making system in accordance with the first duty of the General Duty Clause, found at CAA Section 112(r)(1). Brookline has agreed to the ACO and executed the agreement on December 18, 2018. Once Brookline started its hazard review process, it found several safety improvements that it should make, which are listed in the ACO. Region 1 undertook this action

after an ammonia release occurred at the rink. This action is part of the National Compliance Initiative for Chemical Accident Risk Reduction. Also, certain General Duty Clause actions require approval by the Assistant Administrator for OECA. Contact: Sheryl Rosner, 617-918-1865; Mary Jane O'Donnell, 617-918-1371.

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## Region 2

### Regular Highlights:

#### Enforcement and Compliance Assurance Issues

##### Region 2 Issues RCRA Administrative Complaint to Veolia Es Technical Solutions for Violations of Organic Air Emissions Requirements

On December 28, 2018, Region 2 issued a Complaint, Compliance Order and Notice of Opportunity for Hearing to Respondent Veolia ES Technical Solutions for failing to comply with RCRA's organic air emissions requirements. Respondent owns and operates a hazardous waste storage and treatment facility in Middlesex, New Jersey. It operates the facility under a permit issued by the State of New Jersey pursuant to its authorized hazardous waste program. Under the terms of the permit, Respondent was required to, among other things, manage its hazardous waste in accordance with the organic air emission provisions of 40 CFR Part 264. As a consequence of a May 2018 EPA inspection and follow-up investigative activities, Region 2 found Respondent had violated two of the organic air emission requirements (and thus had violated the terms of its state permit): (a) 40 C.F.R. § 264.1056(a)(1), the requirement that each open-ended valve in the tanks holding hazardous waste be capped with a specified closure device, and (b) 40 C.F.R. § 264.1064(g)(1), the requirement that a list be kept in the facility's operating log with the identification number of all equipment subject to the organic air emissions requirements. The complaint seeks a penalty of \$76,200. This case, in the development of which the Region coordinated with New Jersey officials, is part of a national initiative to ensure compliance with the organic air emissions requirements. Program contact: John Wilk, 212-637-1475. ORC contact: Lee Spielmann, 212-637-3222.

##### EPA Region 2 Issues CERCLA Administrative Settlement Agreement and Order on Consent to City of New York regarding Newtown Creek Site

On December 20, 2018, EPA Region 2 issued an Administrative Settlement Agreement and Order on Consent ("AOC") to the City of New York, with respect to the Newtown Creek Superfund Site. The AOC requires the City to undertake, pursuant to CERCLA, a Focused Feasibility Study ("FFS") concerning discharge of combined sewage overflow ("CSO") to Newtown Creek, a waterbody located in Brooklyn and Queens in the City of New York, and which is listed on the National Priorities List. The City is one of 14 potentially responsible parties that have so far been identified by EPA for the Site. A remedial investigation and feasibility study for the Site is being conducted by six PRPs, including the City, under a separate Administrative Settlement Agreement and Order on Consent issued by EPA in 2011, which will serve as the basis for selection of a final remedy for the Site in or around 2024. The FFS to be performed by the City under the new AOC will summarize the nature and extent of hazardous substances present in CSO currently being released to Newtown Creek and anticipated to be released in the future; will evaluate the impacts of such hazardous substance releases, including impacts to human health and/or the environment for CERCLA purposes; and will develop and evaluate alternatives to address such impacts. Following completion of the FFS, EPA anticipates

that it will issue a Record of Decision for an early action at the Site. ORC contact: Michael A. Mintzer, 212-637-3168.

**Region 2 Issues Administrative Complaint to Cadillac Uniform & Linen Supply, LLC**

On December 21, 2018, Region 2 issued an administrative complaint alleging violations of RCRA at an industrial laundry facility owned and operated by Cadillac Uniform & Linen Supply, LLC (“Cadillac”). In its complaint, EPA alleged that Cadillac had failed to: (1) make a hazardous waste determination for solid waste generated at its facility; (2) obtain a permit for the storage of hazardous waste; and (3) comply with the standards for the management of used oil. The complaint includes a proposed penalty of \$70,779. EPA has direct implementation responsibility for enforcement of RCRA’s hazardous waste regulations in Puerto Rico. ORC contact: Suzette M. Meléndez, (787) 977-5822. Program contact: Eduardo González, (787) 977-5839.

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## Region 3

### Regular Highlights:

#### Enforcement and Compliance Assurance Issues

##### Settlement Reached with Smith Rentals LLC for Multiple Violations of Lead-Based Paint Disclosure Rule in the Morgantown, West Virginia Area [Docket No. TSCA-03-2019-0041]

On December 18, 2018, the Regional Judicial Officer for EPA Region III issued a Final Order concluding a proceeding initiated by EPA under the federal Toxic Substances Control Act (TSCA) against Smith Rentals LLC for multiple violations of the Federal Real Estate Notification and Disclosure Rule for Lead-Based Paint in 22 lease transactions for residential properties in the Morgantown, West Virginia area. Among other things, the Disclosure Rule requires that lessors of “target housing” comply with certain notification and disclosure requirements for lease transactions of residential properties or dwellings. In each lease transaction, Smith Rentals failed to include a prescribed lead warning statement and the lessor’s lead disclosure statement. Under the terms of the settlement, a civil penalty of \$56,114 will be paid by Smith Rentals. This was a case of direct implementation. Primary Contact: James M. Baker, (215) 814-2109, Additional Contact: Annie Hoyt, (410) 305-2640.

##### Regional Judicial Officer Issues Consent Agreement and Final Order in CWA Stormwater Case Against Prince William County, VA, Public Schools [EPA Docket No. CWA-03-2019-0037]

On December 18, 2018, the Regional Judicial Officer issued a Consent Agreement and Final Order, to Prince William County Public Schools for failure to comply with General Permit No. VAR10, General Permit for Discharges of Stormwater From Construction Activities (“the 2014 General Permit”). On September 8, 2016, EPA and VADEQ representatives conducted an inspection of Respondent’s facility and discovered violations of Respondent’s permit. Specifically, Respondent failed to implement correctly its Pollution Prevention and Stormwater Pollution Prevention Plans, resulting in numerous violations at outlets during peak flows as a result of the lack of secondary containment. Uncontrolled storm water runoff from construction sites often contains oil and grease, chemicals, nutrients and oxygen-demanding compounds and other pollutants. The CWA requires owners of certain construction operations to obtain a permit before discharging storm water runoff into waterways and to implement the pollution-reducing Abest management practices@ such as spill prevention safeguards, material storage and coverage requirements, and runoff reduction measures required by the permit. Respondent has since performed all work required under the permit at the Site. Respondent agreed to pay a settlement penalty of \$28,800. Primary Contact: Pam Lazos, (215) 814-2658, Additional Contact: Aryel Abramovitz, (215) 814-2396.

##### Region III Settles with Blind Industries and Services of Maryland Regarding FIFRA Violations Related to Hospital Disinfectants [Docket No.: FIFRA-03-2019-0035]

This case resulted from an October 27, 2016 inspection of the Blind Industries and Services of

Maryland (BISM) facility located in Halethorpe, Maryland conducted by the Maryland Department of Agriculture (MDA) during which sample products were collected and subsequently tested by a state laboratory. The alleged violations involve the sale of hospital disinfectant pesticide products with concentrations of active ingredient that were either above or below the concentrations approved as part of respective FIFRA product registrations. Underformulated hospital disinfectants pose a risk that they will not be efficacious, and overformulated hospital disinfectants pose a health risk to users. The alleged violations posed a serious potential risk of harm to human health. BISM is located in a potential Environmental Justice area of concern. On December 18, 2018, a Consent Agreement and Final Order was filed simultaneously commencing and concluding an administrative action proceeding against BISM for distributing or selling three hospital disinfectants with compositions that differ from the compositions represented as part of their registrations, constituting unlawful acts under FIFRA. Respondent will pay a civil penalty of \$6,854. Appropriate contacts from the MDA were notified of this action. Primary Contact: Jennifer M. Abramson, (215) 814-2066, Additional Contact: Courtenay Hoernemann, (215) 814-2216.

**EPA Enters into CAFO with E. John Schmitz and Sons, Inc. for RCRA Violations in Sparks, MD [Docket No. RCRA-03-2019-0012]**

On December 19, 2018, Region III filed a Consent Agreement and Final Order (CAFO) for violations of Maryland's federally enforceable Hazardous Waste Management Regulations, with E. John Schmitz and Sons, Inc., a commercial printer in Sparks, Maryland. The regulations protect human health and the environment by providing for the safe management of hazardous waste. As the result of a compliance evaluation inspection and subsequent communications, EPA discovered that E. John Schmitz and Sons, Inc. had been operating a hazardous waste treatment, storage and/or disposal facility without a permit or interim status, and had failed to: describe arrangements with local authorities and list emergency equipment in its contingency plan; maintain hazardous waste training records; conduct weekly inspections of hazardous waste storage areas; and make hazardous waste determinations. Under the CAFO, E. John Schmitz and Sons, Inc. has agreed to fully comply with hazardous waste management requirements and pay a civil penalty of \$24,110. Primary Contact: Chris Minshall, (215) 814-2473, Additional Contact: Stephen Forostiak, (215) 814-2136.

**Amended Complaint Filed in Lawsuit Against EPA for Failure to Meet CAA Deadlines Associated with the 2010 SO2 NAAQS**

On December 17, 2018, the Center for Biological Diversity (CBD) filed an amended complaint against EPA which updated its June 14, 2018 complaint alleging that EPA failed its mandatory duty to take final action within 12 months on a variety of state implementation plan (SIP) submittals associated with the 2010 SO2 NAAQS. The amended complaint includes additional SO2 SIP submittals that became due following the filing of the original complaint and removes from the case those SIP submittals for which EPA has taken action since the filing of the original complaint. Areas in Region III that are still included in this action are the Steubenville, OH-WV nonattainment area, and parts of the Allegheny, Pa area, Beaver, Pa. area, Indiana County, Pa. area, and Marshall County, WV area. In addition, parts of the Anne Arundel County- Baltimore

County MD nonattainment area are included. OGC, in conjunction with DOJ, is seeking a negotiated settlement of the lawsuit with dates by which EPA must act on these SIP submittals. Primary Contact: Doug Snyder, (215) 814-2692, Additional Contact: Megan Goold, (215) 814-2027.

### **Executive Chairman of the Sierra Leone Environment Protection Agency Visits US EPA Region 3**

On December 19, 2018, Executive Chairman of the Sierra Leone Environment Protection Agency (SL EPA) Dr. Foday Jaward visited the US EPA regional office. During this visit, Dr. Jaward, accompanied by Dr. Dave Kargbo of the Temple University Office of Sustainability, and Augustine Kebbie, City of Philadelphia Department of Public Health, were welcomed to the Region and met with the EPA Regional Administrator, Deputy Regional Administrator, and Land and Chemicals Division Director. In addition, the guests attended a meeting with a variety of EPA employees from various divisions, as well as EPA Headquarters Office of International and Tribal Affairs, with experience and insights on international environmental work and initiatives. Dr. Jaward provided an insightful presentation on the current environmental conditions in the country and future directions of the Sierra Leone EPA. During an engaging roundtable discussion, all attendees brainstormed potential ideas for addressing some of Sierra Leone EPA's priorities, including capacity building and raising awareness of environmental issues through communication and education. This was a preliminary meeting to begin the conversation for identifying potential intersections of priorities between both environmental agencies. Primary Contact: Natalie Katz, (215) 814-2615, Additional Contact: John Armstead, (215) 814-3127.

### **EPA Region III Settles Tox Path Specialists, LLC Over RCRA Hazardous Waste Storage Violations in Frederick, MD [Docket No. RCRA-03-2019-0014]**

On December 26, 2018, EPA Region III filed a Consent Agreement and Final Order, simultaneously commencing and concluding an administrative action proceeding against Tox Path Specialists, LLC ("TPS"), of 8420 Gas House Pike, Frederick, MD 21701, for seven alleged violations of the authorized Code of Maryland Regulations ("COMAR"). TPS, a large quantity generator of hazardous and acute hazardous waste, is a laboratory specializing in neurohistology and neuropathology evaluations and consultations in addition to being a full-service histopathology provider. The violations in the Consent Agreement and Final Order included the following: 1) owning and/or operating a hazardous waste treatment, storage or disposal facility without a permit or interim status; 2) failure to make a hazardous waste determination; 3) failure to provide job descriptions relating to hazardous waste handling; 4) failure to provide adequate initial and annual training to personnel handling hazardous waste; and 5) failure to perform weekly inspections of the hazardous waste storage area; 6) failure to submit biennial reports; and 7) storage of hazardous waste for greater than 90-days. Respondent will pay a civil penalty in the amount of \$29,425. Primary Contact: Jeffrey Nast, (215) 814-2652, Additional Contact: Steve Forostiak, (215) 814-2136.

### **Former Certified Restricted Use Pesticide Applicator Indicted and Arrested for Falsifying**



### **Applicator License and Mail Fraud (M.D. Pa. No. 3-19-Cr-07)**

On January 8, 2019, a federal grand jury in Scranton, Pa., indicted John Gallagher, on two counts of mail fraud and one count of false statements in connection with his falsification of his FIFRA-required license to apply restricted use pesticides and other related business documents for more than 10 years. He additionally falsified the restricted use license of an employee which had expired. FIFRA requires individuals to take training and pass a test to be certified to apply restricted use pesticides and fungicides. Such licenses must be updated periodically by EPA or a state granted authority by EPA. Between 2009 and 2016, Gallagher repeatedly altered the dates of restricted use licenses issued in Pennsylvania and New York, as well as business licenses and insurance documents, to make it appear he was authorized to apply restricted use pesticides. He also altered the license of an employee. Gallagher used these altered documents to obtain work to apply the pesticide Phostoxin to grain stores, such as pet food companies and transporters, in Pennsylvania and New York. Phostoxin is a trade name for aluminum phosphide, a compound used to kill insects and small verminous mammals. It is potentially lethal to humans and can ignite or explode spontaneously when exposed to water.

The indictment alleges that Gallagher obtained approximately \$72,000 in business from three companies between 2009 and 2016, for Phostoxin applications and was paid approximately \$888,000 by these companies during that time for pesticide applicator services, including application of Phostoxin. This case was investigated by EPA's Criminal Investigation Division with assistance from PADEP. Gallagher was arrested at his home in Texas and has been arraigned in Pennsylvania. Primary Contact: Martin Harrell, (215) 814-2638.

### **West Virginia Sewage Hauler Sentenced to 15 Months Imprisonment for Illegal Discharge into a Stream [US v. Michael Blankenship, SDWV 5:17-00200]**

On January 16, 2019, Michael Blankenship was sentenced to serve 15 months in prison and was fined \$10,000 resulting from his conviction for two CWA felonies after a jury trial in April 2018. Blankenship operated numerous businesses, including the collection and haulage of sewage and portable toilet waste. EPA's Criminal Investigation Division was notified by inspectors from the West Virginia Department of Environmental Protection of an illegal discharge in September 2015 into Little Huff Creek, a perennial stream and tributary of the Guyandotte River. CID's investigation revealed that Blankenship's neighbors noticed discharges by Blankenship on other dates in 2015 and 2016. Blankenship did not have a permit to discharge sewage, or any pollutant, into the stream. Blankenship was required under West Virginia law to take the waste to a POTW in Beckley, West Virginia. The jury trial included testimony from 16 witnesses, including his neighbors, municipal WWTP operators, county health official, FBI agent, state police officer, local environmental lab chemist, and WVDEP inspectors. WVDEP played a significant role at trial with testimony on the September 2015 dumping incident, Blankenship's sewage business and permitting issues, and WOTUS. ORC attorney Perry McDaniel served as a Special Assistant United States Attorney during the trial and spoke for the United States at the sentencing hearing. Primary Contact: Perry McDaniel, (304) 340-7841.

**Remittance Letter Issued for Successful Performance of Supplemental Environmental Project by Vorbeck Materials Corp. in Jessup, Maryland**

As part of a Consent Agreement and Final Order, filed on June 8, 2017, Vorbeck Materials Corp., a manufacturer of hi-tech inks and other materials in Jessup, Maryland, paid a \$28,200 penalty and performed a Supplemental Environmental Project to settle allegations of RCRA C violations. Vorbeck donated emergency response equipment and innovative communications equipment to the Howard County, Maryland, Fire Department Hazmat and Special Operations Division, and spent \$51,248.00. On December 20, 2018, the Director of the Region 3 Land and Chemicals Division, John Armstead, issued a letter of remittance to Vorbeck for its successful SEP Completion. Primary Contact: Natalie Katz, (215) 814-2615, Additional Contact: Martin Matlin, (215) 814-5789.

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## Region 4

### Regular Highlights:

#### **Enforcement and Compliance Assurance Issues**

##### **MPLX LP Clean Air Act Consent Decree Entered by the Court**

On January 8, 2019, the consent decree between the United States and MPLX LP (MPLX) and 11 of its subsidiaries was entered in the U.S. District Court for the Northern District of Ohio. The multiregional CD involves Regions 3, 4, 5 and 6, and covers 20 natural gas processing plants located in Pennsylvania, Ohio, West Virginia, Kentucky, Oklahoma, and Texas. The settlement is part of the EPA's national enforcement initiative: Ensuring Energy Extraction Activities Comply with Environmental Laws. The global settlement resolves alleged violations of the CAA, 42 U.S.C. § 7411(e) and the New Source Performance Standards (NSPS) governing leak detection and monitoring of volatile organic compounds (VOCs) from onshore natural gas processing plants and the synthetic organic chemical manufacturing industry. Under the terms of the settlement, MPLX is expected to spend approximately \$2.78 million to install and operate new technologies, as well as improve and expand existing control techniques that minimize VOC emissions at its natural gas processing plants. MPLX will also perform Supplemental Environmental Projects (SEPs) involving fence-line monitoring at certain facilities, including Region 4's facility located in Siloam, Kentucky, and install equipment to control VOC emissions from truck loading operations at two natural gas compressor stations. MPLX will pay \$925,000 in civil penalties. Contacts: Marlene J. Tucker, Office of Regional Counsel at (404) 562-9536 and Denis Kler, Stephen Rieck and Kevin Taylor, North Air Enforcement Section (404) 562-9199.

##### **The EPA Settles Dispute with NL Industries Over Demand for Past Costs at Northside Drive Superfund Site**

Pursuant to an Administrative Order on Consent (AOC) for Removal Action for the Northside Drive Superfund Site in Atlanta, Georgia, the EPA billed NL Industries \$280,282.58 in 2008 for payment of past costs. NL Industries disputed the entire bill and, as required by the dispute resolution provisions in the AOC, it placed the disputed money into an interest-bearing escrow account. Over the course of a decade, the EPA and NL engaged in negotiations regarding this bill, with the EPA addressing all of NL Industries' queries and supplying additional documentation sought by the company. In June 2018, the EPA contacted NL by sending the company a letter addressing all of NL Industries' alleged defenses to payment of the bill. That letter precipitated additional negotiations with NL. The EPA ultimately reduced the bill by approximately \$20,000 because the final indirect costs rates for the billing years in question were lower than the provisional indirect costs rates that had been applied to the original bill. NL Industries paid the EPA \$258,705.68 in December 2018 in full settlement of this matter. Contacts: Deborah Benjamin (ORC), 404-562-9561; Greg Armstrong (SFD), 404-562-8872; Kerri Sanders (SFD), 404-562-8736.

## **Region 5**

### **Regular Highlights:**

#### **Enforcement and Compliance Assurance Issues**

##### **Four Audi Managers Charged in Connection with Conspiracy to Cheat U.S. Emissions Tests**

Four Audi managers, including a former member of Audi AG's management board, were charged in an indictment filed on January 17, 2019 for their roles in the nearly decade-long conspiracy to defraud U.S. regulators and U.S. customers by implementing software specifically designed to cheat U.S. emissions tests in tens of thousands of Audi "clean diesel" vehicles. Richard Bauder, 69, former head of Audi's Diesel Engine Development Department; Axel Eiser, 57, former head of Audi's Engine Development Division; Stefan Knirsch, 52, former head of Audi's Engine Development Division and a former member of Audi's Management Board, and Carsten Nagel, 50, former head of Diesel Certification, were charged in the Eastern District of Michigan with one count of conspiracy to defraud the United States, to commit wire fraud and to violate the Clean Air Act, along with multiple counts of wire fraud and multiple counts of making false statements under the Clean Air Act. All four are believed to be citizens of Germany.

These individuals join Giovanni Pamio, 61, an Italian citizen, who was charged via criminal complaint in July 2017 and whose extradition from Germany is being sought by U.S. authorities. Pamio was formerly head of Thermodynamics within Audi's Diesel Engine Development Department in Neckarsulm, Germany. According to the recent indictment, from in or about 2006 until in or about November 2015, Pamio led a team of engineers responsible for designing emissions control systems to meet emissions standards, including for nitrogen oxides (NOx), for Audi 3.0 liter diesel vehicles in the United States. The indictment further alleges, when Bauder, Eiser, Knirsch, Nagel and Pamio realized that it was impossible to calibrate a diesel engine that would meet NOx emissions standards within the design constraints imposed by other departments at the company, they directed Audi employees to design and implement a software function to cheat the standard U.S. emissions tests.

The indictment alleges the co-conspirators deliberately failed to disclose the software function, and knowingly misrepresented to U.S. regulators and U.S. customers that the vehicles complied with U.S. NOx emissions standards. Bauder, Eiser, Knirsch, Nagel, and Pamio also are alleged to have marketed the Audi 3.0 liter vehicles to the U.S. public as "clean diesel," when they knew that these representations were false. Audi's parent company, Volkswagen AG (VW), previously pleaded guilty to three felony counts connected to cheating U.S. emissions standards. VW was sentenced in April 2017, and the company paid a \$2.8 billion criminal penalty. An indictment is merely an allegation and all defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law. Contact: David Mucha, 312-886-9032.

**Consent Decree Entered in United States, the State of Oklahoma, the Pennsylvania Department of Environmental Protection and the State of West Virginia and MPLX LP, et al.**

On January 8, 2019, the Court entered the Clean Air Act Consent Decree between the United States, the State of Oklahoma, the Pennsylvania Department of Environmental Protection and the State of West Virginia, and MPLX, LP, and 11 of its subsidiaries (MPLX), to resolve violations of the Clean Air Act and analogous state laws at MPLX natural gas processing plants in Ohio, Pennsylvania, West Virginia, Kentucky, Texas, and Oklahoma.

MPLX failed to comply with multiple volatile organic compound (VOC) emission control requirements under several New Source Performance Standards (NSPS) applicable to natural gas processing plants, including failure to comply with leak detection and repair (LDAR) requirements, failure to control VOC emissions from pressure relief devices, and failure to comply with enclosed combustor testing and monitoring requirements. MPLX also failed to comply with the NSPS for synthetic organic chemical manufacturing distillation units and NSPS regulations applicable to MPLX's hot oil process heaters

MPLX has agreed to the following elements of injunctive relief, valued at approximately \$3.483 million, for 20 natural gas processing plants: (1) comply with NSPS Subpart OOOO at process units currently subject to the less stringent NSPS Subpart KKK (which includes implementation of connector monitoring at such units); (2) implement an LDAR Program that will bring facilities into compliance with LDAR regulations, and mitigates the environmental harm caused by alleged noncompliance; (3) install technological fixes for pilot-operated pressure relief valves to prevent pilot-escaping emissions from being vented directly to the atmosphere; (4) comply with NSPS Subpart NNN applicable to synthetic organic chemical manufacturing distillation units; (5) implement fugitive leak monitoring for fin fan heat exchangers using optical gas imaging (OGI) instrumentation; (6) monitor and maintain minimum combustion operating temperatures for enclosed combustors; (7) improve LDAR monitoring at hose connections at railcar/truck loading operations; (8) improve LDAR monitoring associated with pressure relief devices at natural gasoline tanks and install isolation valves on such devices to facilitate repair of the devices without need to wait for process shutdowns; (9) implement NO<sub>x</sub> emission monitoring measures to comply with NSPS Db and Dc requirements applicable to process heaters; and (10) apply for non-Title V, federally-enforceable permit amendments to incorporate consent decree requirements that will survive termination of the consent decree.

Also, to mitigate the environmental harm caused by its alleged noncompliance, MPLX has agreed to reduce VOC emissions at two of its natural gas compressor stations (one in Pennsylvania and one in Ohio) by installing at those stations VOC emission capture technology applicable to truck loading operations.

When fully implemented, EPA estimates that the new controls and requirements would result in emission reductions of 1,523 tons per year of VOCs from MPLX's natural gas processing plants. VOCs contribute to smog and to sensory irritation symptoms, allergies and asthma, and neurological and liver toxicity. Certain VOC are also known carcinogens. NOx emissions contribute to smog as well as acid rain, particulate matter, water quality deterioration, and visual impairment. Through the implementation of injunctive relief at 20 natural gas processing plants, MPLX will improve air quality in Ohio, Pennsylvania, West Virginia, Kentucky, Texas, and Oklahoma.

Under the decree, MPLX will pay a \$925,000 civil penalty. MPLX will also perform two supplemental environmental projects. First, MPLX will install and operate ambient air VOC monitoring stations near four natural gas processing plants in Pennsylvania, West Virginia, Kentucky, and Texas that will cost at least \$2.5 million. Information gathered about the nature and extent of VOC emissions from natural gas processing plants will be shared with the public. Second, MPLX will conduct a predictive fugitive leak monitoring study to test the efficacy of predictive computer modeling for fugitive leaks at a natural gas processing plant in Ohio, which will cost at least \$75,000. If proven successful, such technology may be used by industry in the future to find and repair VOC-leaking components faster and more cost-effectively. Contacts: Constantinos Loukeris, 312-886-3198, Environmental Engineer, Air and Radiation Division; Mary McAuliffe, Office of Regional Counsel, 312-886-6237.

**Region 5 signs a Consent Agreement and Final Order with Kremers Urban Pharmaceuticals Inc., Resolving Clean Air Act Violations**

On December 31, 2018, the U.S. Environmental Protection Agency, Region 5 filed a Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk that simultaneously commences and concludes an action against Kremers Urban Pharmaceuticals Inc., (Kremers) under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d). Kremers owns and operates a pharmaceutical manufacturing facility in Seymour, Indiana (Facility). The Facility has approximately 770 employees and operates on a 24/7 batch-process operation. The Facility manufactures liquid, capsule, and tablet forms of specialty generic pharmaceutical drugs. During the encapsulation process, Kremers uses solvents that contain hazardous air pollutants (HAPs) for its pharmaceutical manufacturing operations, and therefore it is subject to the requirements of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Pharmaceuticals Production (Subpart GGG).

On June 29, 2017, EPA issued to Kremers a Finding of Violation (FOV) alleging that it violated Subpart GGG. On January 25, 2018, EPA issued a guidance memorandum withdrawing EPA's "once in always in" policy for the classification of major sources of HAPs under Section 112 of the Clean Air Act. With the new guidance, sources of HAPs previously classified as "major sources" may be reclassified as "area" sources at any time so long as the facility limits its potential to emit below major source thresholds.

Since Kremers was no longer a "major source" of HAP, Kremers is reclassifying as an "area" source under the NESHAP for Chemical Manufacturing Area Sources at 40 C.F.R. Part 63,

Subpart VVVVVV (Subpart VVVVVV). In an administrative order on consent issued on December 26, 2018, Kremers will comply with Subpart VVVVVV and ensure that it can maintain and demonstrate compliance with the applicable synthetic minor limit by incorporating requirements and measures necessary to ensure compliance into a federally-enforceable permit.

Under the terms of the CAFO, Kremers will pay \$60,000 for the CAA violations. Kremers will also perform a supplemental environmental project (SEP) designed to protect families by abating lead-based paint hazards in a number of child-occupied facilities or residential properties near the Facility at a cost of \$225,000. The State of Indiana has been notified about this settlement and does not object. (Contacts: Albana Bega, Air and Radiation Division, 312-353-4789, and Mary McAuliffe, Office of Regional Counsel, at 312-886-6237.

**Region 5 Files a Consent Agreement and Final Order Commencing and Concluding a Proceeding with Metals Management Midwest, Inc. (d/b/a Sims Metal Management) to resolve CAA violations at its facility located in Chicago, Illinois**

Sims Metal Management (Sims) is a metal recycler, with operations encompassing the buying, processing and selling of ferrous and non-ferrous recycled metals. Sims has operations in over 20 countries, and approximately 4,500 employees.

On December 20, 2018, Region 5 filed a Consent Agreement and Final Order Commencing and Concluding a Proceeding with the Respondent to settle violations of the Clean Air Act (CAA) and the Illinois State Implementation Plan (SIP). Specifically, Sims allowed fugitive particulate matter from its shredder to cross the property line on several occasions and failed to obtain a federally enforceable state operating permit (FESOP) that limited its potential to emit to no more than 25 tons of VOM per year at its Paulina facility.

During settlement, Respondent agreed to pay a civil penalty of \$225,000. It also agreed to an enter into an Administrative Consent Order that requires it to: (1) Immediately cap its production to ensure that its potential to emit VOM will not exceed 25 tons of VOM per year. This production limit will be incorporated into a FESOP; (2) Comply with an enhanced Fugitive Dust Plan which will be incorporated into its FESOP; (3) Conduct emissions testing that will determine an accurate emission factor for VOM emissions at the facility; and (4) Based on the emission factor determined by the emissions testing, incorporate the emission factor and associated production limit into a modified FESOP within 12 months of the ACO. Contact: Nidhi O'Meara, primary contact 312-886-0568; Scott Connolly 312-886-1493.

## Region 6

### Regular Highlights:

#### **Enforcement and Compliance Assurance Issues**

##### **Administrative Compliance Orders on Consent Issued for Eagle Ford Oil and Gas Emissions - Encana Oil & Gas Inc. - Carmody Trust Production Facility, Karnes County, Texas**

On December 28, 2018, EPA Region 6 issued a Clean Air Act Administrative Order on Consent (AOC) to Encana Oil & Gas (USA) Inc., for its Carmody Trust Production energy extraction facility in Karnes County, Texas. The AOC addresses an unlit flare identified using optical gas imaging technology during helicopter flyovers conducted by an EPA contractor May 8 -16, 2018, in the Eagle Ford Shale area near San Antonio, Texas. The consent order documents the steps to be taken by the facility to address violations and requires the facility to inspect all flares at the facility to ensure that flares used for the control of emissions from production during all facility operating scenarios where gases are routed to the flares are properly operated and continuously lit. Contact: Carlos Zequeira-Brinsfield, 214-665-8053.

##### **Luminant New Source Review Litigation – Anticipated Deadline and Filing of Response to Luminant's Petition for Rehearing En Banc**

In the district court, the United States alleged that Luminant Generation Company LLC and Big Brown Power Company LLC (collectively "Luminant") modified coal-fired electric generating units at Martin Lake and Big Brown Power Plants in Texas without securing Prevention of Significant Deterioration permits or complying with Best Available Control Technology obligations. The action concerns emissions of sulfur dioxide and nitrogen oxide air pollution. The district court dismissed seven of the United States' nine claims on August 21, 2015, and issued final judgment in favor of Luminant on January 12, 2017. The United States and Intervenor Plaintiff-Appellant Sierra Club timely appealed to the Court of Appeals for the Fifth Circuit. On October 1, 2018, the Fifth Circuit affirmed the district court's dismissal of the legal claims for civil penalties and reversed dismissal of the injunctive-relief claims. Luminant filed a petition for rehearing en banc on November 15, 2018. The Fifth Circuit granted two extensions of time for the United States to respond to Luminant's petition and, on January 18, 2019, stayed proceedings pending the lapse in appropriations. It is anticipated that DOJ will request a new response filing deadline for the week of February 11, 2019, and the United States will file its response to Luminant's petition for rehearing en banc accordingly. Contact: Erin Tanimura, 214-665-8181.

##### **Region 6 to Receive Permit Application for Enterprise Export Terminal**

EPA Region 6 will receive an application this week for both a Clean Air Act Prevention of Significant Deterioration (PSD) permit and a Title V operating permit from Enterprise Products (Enterprise). Enterprise plans on developing its Sea Port Oil Terminal (SPOT), an offshore deepwater port for crude oil export. SPOT will be located in the Gulf of Mexico, approximately 30 miles off the coast of Brazoria County, Texas. Contact: Joshua Olszewski, 214-665-2178.



### **EPA Files Status Report with the 5th Circuit re Reasonable Progress in Texas Regional Haze**

On January 29, 2019, EPA filed a status report with the Fifth Circuit Court of Appeals for the Reasonable Progress (RP) component of Texas Regional Haze. Previously, on August 27, 2018, EPA published a notice proposing to affirm its October 17, 2017 final rule for the Best Available Retrofit Technology (BART) component of Texas Regional Haze, and providing an opportunity for public comment on the notice (83 FR 43586). In this status report, EPA informed the Court that EPA had been busy reviewing the comments it received, in preparation to draft responses to the comments. The government shutdown from December 28, 2018 through January 25, 2019 interrupted that work, but EPA is now resuming that activity and the case should remain in abeyance. EPA's next status report for RP is due to be filed on or before April 1, 2019. Contact: Joshua Olszewski, 214-665-2178.

### **EPA Files Response with D.C. District Court in Texas Regional Haze BART Litigation**

EPA is subject to a Consent Decree (CD) to complete action on a plan to address best available retrofit technology (BART) for Texas regional haze and interstate visibility transport. The DC District court oversees the CD. EPA was originally scheduled to file a status report with the court by January 14, 2019. As a result of the government shutdown, on January 16, 2019, the court ordered EPA (within two days of reopening) to file a response indicating when it would file the status report. On January 29, 2019, EPA informed the court that it would file the status report by February 12, 2019. Contact: Joshua Olszewski, 214-665-2178.

### **EPA Region 6 Approves Blanchard Refining Company's Request to Use NOx Emission Credits to Offset VOC Emissions in Texas City, Texas**

Blanchard Refining Company, LLC (Blanchard) intends to conduct a project at its Galveston Bay Refinery in Texas City, Texas (located in the Houston-Galveston-Brazoria (HGB) ozone nonattainment area) which will result in volatile organic compounds (VOC) emission increases. On September 5, 2018, Blanchard submitted an Interprecursor Trade request to offset the VOC increases with oxides of nitrogen (NOx) emission reduction credits (ERCs) previously generated in the HGB area to meet New Source Review (NSR) offset requirements whereby one pollutant reduction is used to satisfy the reduction requirements of another pollutant. As required by the Texas State Implementation Plan (SIP), Blanchard must obtain approval from both EPA and the Texas Commission on Environmental Quality (TCEQ). EPA reviewed the request, found that it complied with the Texas SIP and EPA's 2015 Ozone SIP Requirements Rule, and approved it on December 19, 2018. TCEQ approved the request on December 21, 2018. Contact: Joshua Olszewski, 214-665-2178.

### **Plaskolite Administrative Compliance Order on Consent-RCRA**

On January 28, 2019, EPA-Region 6 filed an Administrative Compliance Order on Consent (ACOC) with Plaskolite Texas, LLC ("Plaskolite"), regarding RCRA violations at its facility located in Grand Saline, Texas. In order to come in to compliance with RCRA and the regulations promulgated thereunder, Plaskolite will implement standard operating procedures for the following: making hazardous waste determinations; managing hazardous waste; reporting,

transporting, and disposing of hazardous waste; preparing manifests; and meeting the requirements for LDR. Contact: Nathaniel Moore, 214-665-8151.

**Sysco North Texas, a Division of Sysco USA I, Inc. CAFO-CAA 112(r)(7)**

EPA-Region 6 anticipates filing a CAFO by February 12, 2019 to resolve federal civil liability for CAA violations against Sysco North Texas, a division of Sysco USA I, Inc. ("Sysco") for violations identified at its facility located in Lewisville, Texas. The violations were identified following an incident at its Lewisville facility and involved the Chemical Accident Prevention Provisions found at 40 C.F.R. Part 68. EPA-Region 6 and Sysco agreed to a settlement that includes a civil penalty of \$50,000.00. Contact: Nathaniel Moore, 214-665-8151.

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## **Region 7**

### **Regular Highlights:**

#### **Enforcement and Compliance Assurance Issues**

##### **Region 7 Settles FIFRA Matter with Syngenta**

On January 29, 2019, the EPA, Region 7, filed a Consent Agreement and Final Order (CAFO) in the matter of Syngenta Crop Protection, LLC (Syngenta), a pesticide producer and registrant that contracts with “refillers” to repackage and distribute its products. Inspections conducted at three Syngenta refillers in Missouri and Kansas revealed distributions and sales of Syngenta’s pesticidal product Prefix, EPA Reg. No. 100-1268, that were misbranded in violation of 12(a)(1)(E). Specifically, the product label was missing a precautionary statement that could lead to human harm and exposure and restrictive direction for use language that could lead to environmental harm. The entered CAFO simultaneously commences and concludes the enforcement action and obligates Syngenta to comply with FIFRA and pay a civil penalty in the amount of \$51,348. Contact: Clarissa Howley Mills, (913) 551-7743.

##### **8<sup>th</sup> Circuit Hears Oral Argument regarding Southern Iowa Mechanical Site**

On January 15, 2019, United States v. Dico, Inc. and Titan Tire Corporation was argued before the 8<sup>th</sup> Circuit Court of Appeals in St. Louis, Missouri. The oral argument involved Dico, Inc. and Titan Tire Corporation’s appeal of the September 2017 Southern District of Iowa decision awarding the United States approximately \$11M in past response costs, punitive damages, and civil penalties. The case stems from Dico and Titan Tire’s 2007 contract with Southern Iowa Mechanical for demolition of onsite buildings. In 2010, the U.S. brought an action alleging that Dico and its corporate affiliate, Titan Tire, arranged for the disposal of PCBs in the buildings and violated the 1994 Order pertaining to the use of the buildings. The United States anticipates a favorable decision from the 8<sup>th</sup> Circuit. Contact: Kristen Nazar, (913) 551-7450.

##### **Litigation against STABL, Inc. f/k/a Nebraska By-Products, Inc. Continues**

On January 28, 2019, the United States filed an expert rebuttal report by Dr. Joan Meyer and Dan Leistra-Jones of Industrial Economics as part of ongoing litigation. The United States and the State of Nebraska obtained a judgment of \$2,285,874 against STABL, Inc. f/k/a Nebraska By-Products, Inc. in January 2014 for violations of the Clean Water Act, which was subsequently affirmed by the 8<sup>th</sup> Circuit. STABL has never paid any portion of that judgment to the U.S. or the State of Nebraska. The U.S. filed a complaint in March 2016 alleging that STABL, its parent holding company, Lant, Inc., and Leon and Ann Johnson (the owner and sole shareholder of STABL and Lant) violated the Federal Debt Collection Procedure Act. The FDCPA allegations at issue center around three \$2 million wire transfers from Nebraska By-Products, Inc. to personal accounts of Leon and Ann Johnson shortly after receiving a penalty demand from the U.S. The State of Nebraska filed its own collection action in July 2016, which has been consolidated with the U.S.’ case for the purpose of discovery. As a next step in the litigation, the United States and the State of Nebraska will be deposing STABL’s experts on February 27<sup>th</sup> and 28<sup>th</sup>, 2019. Contact: Kristen Nazar, (913) 551-7450.

## Region 10

### Regular Highlights:

#### Enforcement and Compliance Assurance Issues

##### Region 10 Settles with Georgia-Pacific Wood Products LLC (Coos Bay, OR) for CWA Violations

On January 29, 2019, Region 10 filed a consent agreement and final order resolving violations of the Clean Water Act (CWA) by Georgia-Pacific Wood Products LLC, located in Coos Bay, Oregon. Respondent operates a lumber mill and failed to comply with its Oregon Department of Environmental Quality (ODEQ) National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge 1200-Z Permit. The facility triggered Tier 1 corrective actions due to exceedances of their sector-specific benchmarks of Chemical Oxygen Demand (COD). Violations include failure to sample representatively, maintain Best Management Practices (BMP), and complete adequate Tier 1 corrective action reports. Pursuant to an administrative order on consent (CWA-10-2019-0010), the facility has agreed to take to undertake certain actions to obtain compliance with the CWA. The facility's efforts will reduce the amount of stormwater discharges into Isthmus Slough which is a tributary of Coos Bay. Coos Bay is an inlet of the Pacific Ocean. The company agreed to pay a penalty of \$79,394. Contacts: J. Matthew Moore, (206) 553-6266; Stacey Kim, (206) 553-1380.

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